

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

RUFINO A. TONY VILLARREAL,)
)
Plaintiff,)
)
v.)
)
LORIN GALVIN, et al.,)
)
Defendants.)

8:07CV399

**MEMORANDUM
AND ORDER**

This matter is before the court on Plaintiff's Motion for Leave to Appeal In Forma Pauperis. ([Filing No. 28](#).) Defendants filed a Brief in Opposition and Index of Evidence in response to the Motion. ([Filing Nos. 30](#) and [31](#).) On May 2, 2008, the court dismissed Plaintiff's claims without prejudice and entered judgment against Plaintiff. ([Filing Nos. 25](#) and [26](#).) On May 29, 2008, Plaintiff filed a Notice of Appeal of the court's Judgment. ([Filing No. 27](#).) Plaintiff is not a prisoner and has previously been granted leave to proceed IFP in this matter. ([Filing No. 5](#).)

As set forth in [Federal Rule of Appellate Procedure 24\(a\)\(3\)](#):

(a) Leave to Proceed in Forma Pauperis

(3) Prior Approval. A party who was permitted to proceed in forma pauperis in the district-court action, or who was determined to be financially unable to obtain an adequate defense in a criminal case, may proceed on appeal in forma pauperis without further authorization, unless the district court – before or after the notice of appeal is filed– certifies that the appeal is not taken in good faith or finds that the party is not otherwise entitled to proceed in forma pauperis. In that event, the district court must state in writing its reasons for the certification or finding.

The court has reviewed the record, including Defendants' Opposition to the Motion. The court finds that because Plaintiff proceeded IFP in the district court, he may now "proceed on appeal in forma pauperis without further authorization."

IT IS THEREFORE ORDERED that:

1. Plaintiff's Motion to Proceed In Forma Pauperis on Appeal ([filing no. 28](#)) is granted.

2. The Clerk of the court shall provide the Court of Appeals with a copy of this Memorandum and Order.

July 25, 2008.

BY THE COURT:

s/ Joseph F. Bataillon
Chief United States District Judge